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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,046	11/29/2001	Timothy Alan Dietz	AUS920010922US1	6049
25299 7590 09/24/2007 IBM CORPORATION PO BOX 12195 DEPT YXSA, BLDG 002 RESEARCH TRIANGLE PARK, NC 27709			EXAMINER SHRESTHA, BIJENDRA K	
			ART UNIT 3691	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/998,046	Applicant(s) DIETZ ET AL.	
	Examiner Bijendra K. Shrestha	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7-11,13,15,17-20,31,33,35 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-11,13,15,17-20,31,33,35 and 37-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-40 are presented for examination. Applicant filed an amendment on 07/10/2007 amending claims 1, 3, 5, 11, 13, 15, 31, 33 and 35, and canceling claims 2, 4, 6, 12, 14, 16, 21-30, 32 and 34. After careful consideration of applicant's arguments and amendments, new grounds of rejections of claims 1-20 and 31-40 established in the instant application as set forth in detail below. Applicant's arguments with respect to claims 1, 3, 5, 11, 13, 15, 31, 33 and 35 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1, 3, 5, 7, 9-11, 13, 15, 17, 19-20, 31, 33, 35, 37 and 39-40 are rejected under 35 U.S.C. 103 (a) being anticipated by Aycock et al., U.S. Patent No. 5,765,138 (reference A in attached PTO-892) in view of Moderegger et al., U.S. Pub No. 2002/0049642 (reference B in attached PTO-892) further in view of Zinky et al., U.S. Patent No. 6,691,148 (reference C in attached PTO-892).

3. As per claim 1, Aycock et al. teach a computer controlled display system for generating quality assurance assessment for software suppliers comprising:

means for assessing the quality level of each of a set of quality attributes of said software suppliers (see Fig. 1 ; column 6, lines 1-5; where quality level of each of set of quality attributes of software supplier specified in Request for Proposal/Request for Quotation (RFP/RFQ) assessed with help of selected set of supplier quality process maturity requirement established in Step 12); and

means for generating for each of said quality attributes at least one requirement for said supplier based upon the quality level of said attribute (see Fig. 1 ; column 3, lines 15-18; where requirement for supplier site evaluation is generated in tier 2 after calculating supplier maturity level in tier 1), wherein said contract requirement involves tracking and reporting of said software development (see Fig. 1, step 46; column 27-46).

Aycock et al. do not teach generation of contract requirement after assessing the supplier.

Moderegger et al. teach generating a contract list of performances after successful bidding of the contract (see Fig. 4b; page 4, paragraph [0056]).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to allow generation of contract requirement after assessing the supplier of Aycock et al. because Moderegger et al. teach that allowing generation of contract requirement after assessing the supplier ensure to meet procedural requirement, product quality requirement, performance specifications and timely delivery at various stages by the supplier (Moderegger et al., paragraph [0009]).

Aycock et al. do not teach means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute.

Zinky et al. teach means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute (Zinky et al., Figs. 3-5; column 3, lines 8-20; column 7, lines 30-60).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to allow means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute of Aycock et al. because Zinky et al. teach that allowing above features enables to evaluate the contract to select a level of quality of service that correspond to a current quality of service provided by the network (Zinky et al., column 3, lines 11-16).

4. As per claim 3, Aycock et al. in view of Moderegger et al. teach claim 1 as described above. Aycock et al. further teach the computer controlled display system, wherein

no contract requirement is generated for at least one of said quality levels for at least one of said quality attributes (see Fig. 1; column 7, lines 46-54; where if a supplier is a regular and established vendor of other projects with excellent historical vendor performance and meets minimum maturity level, then the supplier may be automatically approved without requiring to go through tier 2).

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5. As per claim 5, Aycock et al. in view of Moderegger et al. teach claim 1 as described above. Aycock et al. further teach the computer controlled display system, wherein:

said set of quality attributes consists of a single overall quality characteristic having several predetermined quality levels (see column 6, lines 37-54; column 7, lines 37-45: where overall maturity level is calculated at step 26 such as level 2 for repeatable process, level 3 for standardized process) ; and

Aycock et al. teach how to determine supplier quality process maturity requirement selected based on maturity levels (see Fig. 1, step 42 and 44; column 7, lines 37-45). Aycock et al. do not teach means for generating plurality of contract requirements.

Zinky et al. teach means for generating plurality of contract requirements for each of said predetermined quality levels (see column 3, lines 8-20).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to allow means for generating plurality of contract requirements for each of said predetermined quality levels of Aycock et al. because Zinky et al. teach that allowing above features enables to evaluate the contract to select a level of quality of service that correspond to a current quality of service provided by the network (Zinky et al., column 3, lines 11-16).

6. As per claim 7, Aycock et al. in view of Moderegger et al. teach claim 1 as described above. Aycock et al. further teach the computer controlled display system, wherein:

said contract requirement involves tracking and reporting of testing of said software (see Fig. 1, step 46; column 27-46).

7. As per claim 9, Aycock et al. in view of Moderegger et al. teach claim 1 as described above. Aycock et al. further teach the computer controlled display system, wherein:

said contract requirement involves the management processes of said supplier (see column 8, lines 26-31; where on-site review of supplier include review of quality control processes and procedure, and site evaluation by production engineers and production control managers responsible for production scheduling).

8. As per claim 10, Aycock et al. in view of Moderegger et al. teach claim 1 as described above. Aycock et al. further teach the computer controlled display system, wherein:

said display system assigns said software supply function to said software supplier in an overall work flow distribution system (see Fig 2 ; column 11, lines 2-4; where the display system assigns the supplier to respond to RFP/RFQ).

Aycock et al. do not teach means for generating automatically generate and distribute said contract requirements to said supplier in response to the selection of said supplier.

Moderegger et al. teach means for generating automatically generate and distribute said contract requirements to said supplier in response to the selection of said supplier (see page 9, paragraph [0056]).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to allow means for generating automatically generate and distribute said contract requirements to said supplier in response to the selection of said supplier of Aycock et al. because Moderegger et al. teach that allowing means for generating automatically generate and distribute said contract requirements to said supplier in response to the selection of said supplier ensure to meet procedural requirement, product quality requirement, performance specifications and timely delivery at various stages by the supplier (Moderegger et al., paragraph [0009]).

9. As per claim 11, Aycock et al. teach a method for generating, on a user interactive computer controlled display system, quality assurance contract requirements for software suppliers comprising:

assessing the quality level of each of a set of quality attributes of said software supplier (see Fig. 1; column 6, lines 1-5; where quality level of each of set of quality attributes of software supplier specified in Request for Proposal/Request for Quotation (RFP/RFQ) assessed with help of selected set of supplier quality process maturity requirement established in Step 12); and

generating for each of said quality attributes at least one requirement for said supplier based upon the quality level of said attribute (see Fig. 1; column 3, lines 15-18; where requirement for supplier site evaluation is generated in tier 2 after calculating supplier maturity level in tier 1), wherein said contract requirement involves tracking and reporting of said software development (see Fig. 1, step 46; column 27-46).

Aycock et al. do not teach means for generation of contract requirement after assessing the supplier.

Moderegger et al. teach means for generating a contract list of performances after successful bidding of the contract (see Fig. 4b; page 4, paragraph [0056]).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to allow generation of contract requirement after assessing the supplier of Aycock et al. because Moderegger et al. teach that allowing generation of contract requirement after assessing the supplier ensure procedural requirement, product quality requirement, performance specifications and timely delivery at various stages by the supplier (Moderegger et al., paragraph [0009]).

Aycock et al. do not teach means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute.

Zinky et al. teach means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute (Zinky et al., Figs. 3-5; column 3, lines 8-20; column 7, lines 30-60).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to allow means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute of Aycock et al. because Zinky et al. teach that allowing above features enables to evaluate the

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contract to select a level of quality of service that correspond to a current quality of service provided by the network (Zinky et al., column 3, lines 11-16).

10. As per claim 13, Aycock et al. teach claim 11 as described above. Claim 13 is rejected under same rational as claim 3.

11. As per claim 15, Aycock et al. teach claim 11 as described above. Claim 15 is rejected under same rational as claim 5.

12. As per claim 17, Aycock et al. teach claim 11 as described above. Claim 17 is rejected under same rational as claim 7.

13. As per claim 19, Aycock et al. teach claim 11 as described above. Claim 19 is rejected under same rational as claim 9.

14. As per claim 20, Aycock et al. teach claim 11 as described above. Claim 20 is rejected under same rational as claim 10.

15. As per Claim 31, Aycock et al. teach a computer program comprising a computer useable medium having a computer readable program, wherein the computer readable program when executed on a computer causes the computer to:

assess the quality level of each of a set of quality attributes of said software supplier (see Fig. 1 ; column 6, lines 1-5; where quality level of each of set of quality attributes of software supplier specified in Request for Proposal/Request for Quotation (RFP/RFQ) assessed with help of selected set of supplier quality process maturity requirement established in Step 12); and

generate for each of said quality attributes at least one requirement for said

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supplier based upon the quality level of said attribute (see Fig. 1; column 3, lines 15-18; where requirement for supplier site evaluation is generated in tier 2 after calculating supplier maturity level in tier 1), wherein said contract requirement involves tracking and reporting of said software development (see Fig. 1, step 46; column 27-46).

Aycock et al. do not teach means for generation of contract requirement after assessing the supplier.

Moderegger et al. teach means for generating a contract list of performances after successful bidding of the contract (see Fig. 4b; page 4, paragraph [0056]).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to allow generation of contract requirement after assessing the supplier of Aycock et al. because Moderegger et al. teach that allowing generation of contract requirement after assessing the supplier ensure procedural requirement, product quality requirement, performance specifications and timely delivery at various stages by the supplier (Moderegger et al., paragraph [0009]).

Aycock et al. do not teach means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute.

Zinky et al. teach means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute (Zinky et al., Figs. 3-5; column 3, lines 8-20; column 7, lines 30-60).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to allow means for dynamically determining one of a plurality of quality levels for each of said set of quality attributes and means for generating a different contract requirement for each of said quality levels for each attribute of Aycock et al. because Zinky et al. teach that allowing above features enables to evaluate the contract to select a level of quality of service that correspond to a current quality of service provided by the network (Zinky et al., column 3, lines 11-16).

16. As per claim 33, Aycock et al. teach claim 31 as described above. Claim 33 is rejected under same rational as claim 3.

17. As per claim 35, Aycock et al. teach claim 31 as described above. Claim 35 is rejected under same rational as claim 5.

18. As per claim 37, Aycock et al. teach claim 31 as described above. Claim 37 is rejected under same rational as claim 7.

19. As per claim 39, Aycock et al. teach claim 31 as described above. Claim 39 is rejected under same rational as claim 9.

20. As per claim 40, Aycock et al. teach claim 31 as described above. Claim 40 is rejected under same rational as claim 10.

21. Claims 8, 18 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al., U.S. Patent No. 5,765,138(reference A in attached PTO-892) in view Moderegger et al.(reference B in attached PTO-892) further in view of Zinky et al., U.S.

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Patent No. 6,691,148 (reference C in attached PTO-892) and further in view of Kansal, U.S. Patent No. 6,647,374 (reference D in attached PTO-892).

22. As per claims 8 and 18 and 38, Aycock et al. in view of Moderegger et al. further in view of Zinky et al. do not teach contract requirement involving software supplier risk identification and reduction.

Kansal teaches the contract requirement involves software supplier risk identification and reduction (see Fig. 5, steps 66-72; Fig. 6 and 7; column 3, lines 55-67 to column 4, lines 1-11, 60-67).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to allow contract requirement that involves software supplier risk identification and reduction of Aycock et al. in view Moderegger et al. because Kansal teaches that allowing contract requirement that involves software supplier risk identification and reduction would enable customer to hedge their risk of using various technology vendors (Kansal, column 12, lines 42-45).

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. Applicant is required to refer to all the references while responding to the office action (see MPEP § 37 CFR 1.111(c)). The following are pertinent to current invention, though not relied upon:

Dan et al. (U.S. Pub No. 2002/0178103) teach automatic dynamic negotiation of electronic service contracts.

Dan et al. (U.S. Patent No. 6,519,627) system and method for conducting disconnected transactions with service contracts with pervasive computing devices.

Dan et al. (U.S. Patent No. 6,148,290) teach service contracts for managing service systems

Dan et al. (U.S. Patent No. 7,062,472) teach electronic contract with primary and sponsor rules.

Mashinsky et al. (U.S. Patent No. 6,912,277) teach assigning telecommunications services to matchable classes.

Paul et al. (U.S. Patent No. 7,185, 070) teach generic quality of service protocol and architecture for user application in multiple protocol environments

Zinky et al. (U.S. Patent No. 6,629,126) teach framework for providing quality of services requirements in distributed object-oriented computer system.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571) 270-1374. The examiner can normally be reached on 7:00 AM-4:30 PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Bijendra K. Shrestha
(571) 270-1374

A handwritten signature in black ink, appearing to read "Alexander Kalinowski". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER